

**July 12, 2001**

Council of the District of Columbia

PUBLIC ROUNDTABLE ON BILL 14-248, "THE MECHANIC'S LIEN AMENDMENT ACT OF 2001"

## **Testimony of William H. Riley, Director of Real Property Tax, before the Committee on Government Operations**

Good morning, Councilmember Orange and members of the Committee. I am Henry Riley, Director of Real Property Tax for the Office of Tax and Revenue (OTR). I am here today to present testimony in support of Bill 14-248, the "Mechanic's Lien Amendment Act of 2001". The proposed legislation would add language to the District of Columbia code to clarify and mirror current administrative practices regarding mechanic's liens. It would also consolidate all such provisions in the code, alleviating some of the confusion that now exists when mechanic's liens are filed.

### **Background**

A mechanic's lien may be filed with the Recorder of Deeds (ROD) against a property owned by someone who has not paid for contracting services or goods used in the construction of that property. Thus, a contractor may place a lien to protect the contractor's interest. In the District, there are about 600 mechanic's liens filed per year.

In the past, the ROD was obligated to accept any mechanic's lien presented for recording. In addition, the existing statute is vague and ambiguous as to any rights the property owner may have to defend or obtain a release of the lien.

As a result, ROD receives many calls with regard to frivolous or unfounded filings of mechanic's liens. Presently, there are three ways to release a mechanic's lien: (1) pay the claimant; (2) litigate the issues in District Superior Court; or (3) obtain a surety bond. Whichever means of release the property owner chooses, it is a hardship in the case of frivolous filings.

In September 2000, the ROD promulgated regulations that required claimants to provide proof of a license to do business in the District of Columbia, accompanied by a copy of the contract, prior to filing a mechanic's lien. In our opinion, these regulations have helped prevent an unscrupulous filer from clouding the title of an innocent property owner. While our regulations have been effective in deterring the filing of frivolous liens, we feel residents and contractors would be better served if the parameters for filing a mechanic's lien were codified.

### **Legislation Summary**

Current law allows mechanic's lien filings in the land records division "during construction or up to 3 months following completion of such building....". The notice of a mechanic's lien on the property currently must include: (1) the name and address of the contractor; (2) the name and address of the owner; (3) the nature or kind of work done or the kind and amount of materials furnished; (4) the name of the party against whose interest a lien is claimed and the amount claimed, less any credit; and (5) a description of the property.

Under the proposed legislation, the filing would now also include: (1) a copy of the contract signed by all parties in interest; (2) a valid copy of the contractor's residential home improvement license filed with the District of Columbia Department of Consumer and Regulatory Affairs (DCRA); or (3) a certificate of good standing from DCRA, or statement from the appropriate taxing authority, indicating the federal and local tax identification numbers.

Finally, the bill requires that if action has not been taken in Superior Court concerning the mechanic's lien after a period of 2 years from the date of recording, it shall be deemed to have been paid and satisfied without any action on the part of the owner or any other person having an interest in the real property.

**Conclusion**

In conclusion, this bill clarifies the filing requirements for mechanic's liens and protects property owners from contractors making false filings by requiring a copy of the contract and /or contractor license information. It protects contractors by ensuring that they complete work via a contract. It helps the land title industry by voiding mechanic's liens that have not been enforced in a timely fashion in Superior Court by deeming them released after two years.

Thank you for this opportunity to testify. I would be pleased to answer any questions that you may have.